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CONSTANCE R. WHITE
COUNTY CLERK
NO: 23-2-04609-4

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON IN AND FOR THE COUNTY OF
PIERCE

JERALD S. GALVAN,)
Plaintiff,)

vs.)

No.)

COMPLAINT FOR DAMAGES)

CITY OF TACOMA , THE TACOMA)
POLICE DEPARTMENT and OFFICERS)
ANDERSON Badge No. 260 and)
KOMAROVSKY Badge No. 241,)
JOHN and JANE DOES 1-5)
Defendants.)

NATURE OF THE CLAIM

1.) This is an action brought by the Jerald S. Galvan, Plaintiff, against the above-named Defendants. The Plaintiff seeks monetary damages for violation of the federal and state law.

I.

JURISDICTION

2.) Defendant, City of Tacoma is a political subdivision of the State of Washington, whose principal offices are located in Tacoma, Pierce County, Washington.

3.) Personal jurisdiction over the Defendants is obtained because the City of Tacoma and the Tacoma Police Department are located and are run and operated in Tacoma, Pierce County, Washington.

II.

VENUE

4) Venue is proper in this Court, in as much as the Defendants can be found in the City of Tacoma, Pierce County, Washington, and the cause of action has arisen and occurred in Pierce County, Washington.

III.

PARTIES

5.) The Plaintiff, Jerald S. Galvan is an individual who resides in Pierce County, Washington.

6.) At all times alleged herein the actions of the all the Defendants occurred while the Plaintiff was in the Pierce County, Washington.

7.) Officer Anderson, Badge No. 260 and Officer Komarovsky, Badge No. 241, were employees of the Tacoma Police Department. Each and every one of these named Defendants has a master/servant relationship with their employer, which is City of Tacoma Police Department. While conducting their

official duties the above-named Defendants engaged in tortious conduct against the Plaintiff and the City of Tacoma is vicariously liable for the tortuous acts committed by their employees in the normal course of business.

8.) John Does 1-5, whose names are not known at this time, were employees of the Tacoma Police Department and the City of Tacoma. Each and every one of these named Defendants has a master/servant relationship with their employer, which is City of Tacoma. While conducting their official duties, all of the above-named Defendants engaged in tortuous conduct against the Plaintiff and The City of Tacoma and the Tacoma Police Department are vicariously liable for the tortuous acts committed by their employees in the normal course of business.

IV.

STATEMENT OF CLAIM

9.) Paragraphs 1 – 8 above are incorporated herein by reference.

10.) On or about February 14, 2020, Mr. Galvan's vehicle was struck by another vehicle and the driver of the vehicle that struck Mr. Galvan's vehicle, attempted to flee the scene of the collision. Mr. Galvan followed the other car and was able to catch him at the Krispy Creme parking lot on Tacoma Mall Blvd. Mr. Galvan called the police to report the collision. When the police arrived, they asked Mr. Galvan about his gun. Mr. Galvan told them that he did not have his gun on him. To show them he did not have his gun Mr. Galvan raised his jacket to show that his holster was empty and when the officers saw his holster, they all jumped on him putting him in a choke hold which caused him to lose consciousness as a result of being placed in a choke hold. The officers also handcuffed Mr. Galvan even

though he had no warrants and he was the victim of the collision.

As Mr. Galvan began to regain consciousness from being put in a choke hold by the officers, he began to have a seizure and which included convulsions of his body.

11.) An EMT vehicle came to the scene and treated Mr. Galvan.

12.) As a direct and proximate cause of the defendants unlawful actions, the Plaintiff has suffered damages including physical, mental and emotional injuries, pain, mental anguish, suffering, humiliation and embarrassment.

13.) On or about October 24, 2022, the Plaintiff filed a claim against the City of Tacoma. The City of Tacoma denied the claim on or about December 9, 2022. It has been more than 60 days since the plaintiff filed this claim and therefore, Mr. Galvan has complied with the requirements set forth in RCW 4.96.020 prior to filing this action.

V.

ASSAULT AND BATTERY

14.) Plaintiff alleges and re-alleges and incorporates by reference the allegations set forth in paragraphs 1-13.

15.) Through their conduct, the Defendants placed Mr. Galvan in a state of fear of imminent, physical contact and they did intentionally and unlawfully touch Mr. Galvan without his consent. This unwanted and unlawful physical touching caused Mr. Galvan to suffer great anxiety due to the assault and the battery of the Defendants.

16.) Defendants had knowledge that their conduct was unwelcome and offensive and harmful to

Mr. Galvan.

17.) As a result of the Defendants' conduct, the Plaintiff has suffered legally compensable harm including pain and suffering, loss of enjoyment of life, mental anguish, injury and humiliation, to address the psychological damages caused by Defendants' conduct.

VI.

VIOLATION OF 42 U.S.C. §1983 AND THE FOURTH, FIFTH AND
FOURTEENTH AMENDMENT TO THE UNITED STATES CONSTITUTION

18.) Plaintiff alleges and re-alleges and incorporates by reference the allegations set forth in paragraphs 1-17.

19.) All Defendants by their acts and omissions set forth above under the color of law, without legal justification, wrongfully restrained, seized the Plaintiff by using excessive force upon him in violation of the Plaintiff's rights under the Fourth, Fifth and Fourteenth Amendments of the United States Constitution, in violation of 42 USC § 1983.

20.) As a direct and proximate result of the Defendants wrongful conduct, Plaintiff has suffered damages, including extreme pain and extreme emotional distress and humiliation.

VII.

NEGLIGENCE

21.) Plaintiff alleges and re-alleges and incorporates by reference the allegations set forth in paragraphs 1-20.

22.) The Defendants by their acts and omissions set forth above, were negligent toward the

Plaintiff by breaching a duty owed to the Plaintiff, and said breach of that duty was the a proximate cause of the damages sustained by the Plaintiff.

23.) As a direct and proximate result of the Defendants wrongful conduct, Plaintiff has suffered damages, including pain and emotional distress and humiliation.

VIII.

CAUSATION AND DAMAGES

24.) Plaintiff repeats, re-alleges, and hereby incorporates by reference each and every allegation in paragraphs 1- 23 as set forth herein in full, and plaintiff further alleges as follows:

25.) Equitable relief or prospective relief alone is inappropriate here. Rather, the Plaintiff is entitled to general and special damages, punitive damages, reasonable attorney's fees, and the broadest of monetary damage remedies.

26.) As a direct and proximate cause of the Defendants above-described tortuous conduct, and their violations of statutory and common law, the Plaintiff has suffered substantial special and general damages of a kind that would be normally foreseeable;

27.) As a direct and proximate result of the above-described acts of the Defendants, the Plaintiff has suffered severe emotional distress, inconvenience, pain and suffering, humiliation, anxiety, loss of enjoyment of life, loss of self respect and other non-pecuniary losses as previously alleged herein, and the Plaintiff will continue to suffer these losses into the foreseeable future;

27.) As a direct and proximate result of the above-described acts of the Defendants, the Plaintiff suffered special damages for costs associated with the any medical and prescription costs, and

pending damages for further medical treatment.

28.) The Plaintiff prays for attorney's fees, costs, and any pre-judgment interest to date;

29.) Such other and further relief as the law provides to remedy the Plaintiff's injuries.

IX.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff respectfully requests that this Court grant the following relief:

1.) Enter a judgment that the acts and practices of the Defendants complained of herein are in violation of the laws of federal law, state law and/or common law;

2.) Award the Plaintiff compensation for all present, and future lost wages; including without limitation all general and special damages as follows:

3.) Award the Plaintiff compensation for all past, present, and future medical and related health care expenses;

4.) Award the Plaintiff compensatory damages for all past, present, and future pain and suffering and other general and non-pecuniary and punitive damages as herein before alleged;

5.) Award the Plaintiff compensatory damages for all past, present, and future loss of enjoyment of life;

6.) Award the Plaintiff the costs of this action, including the fees and costs of experts, together with reasonable attorney's fees.

7.) Award the Plaintiff total damages in amount to be proven at the time of trial.

8.) Grant an Order restraining the Defendants from retaliating against any the witnesses,

including employees who participate in this litigation.

9.) Grant the Plaintiff such additional and further relief as this Court deems necessary, just, and equitable.

Respectfully Submitted this 2nd day of February, 2023.

/s/ Harold H. Franklin, Jr.

Harold H. Franklin, Jr.

WSBA #20486

Attorney for the Plaintiff